

REMARKS

Reconsideration and allowance of the present application are respectfully requested. Claims 1-16 remain pending in the application. By the amendment, claims 1 and 9 are amended.

In numbered paragraph 6, independent claims 1 and 9, along with various dependent claims, are rejected as being unpatentable over U.S. Patent No. 6,747,957 to Pithawala et al. (Pithawala) in view of U.S. Patent No. 6,661,778 to Trofin et al. (Trofin). In numbered paragraph 18, dependent claims 2-4 and 10-12 are rejected as being unpatentable over the Pithawala et al. patent in view of the Trofin et al. patent, and further in view of U.S. Patent No. 6,178,449 to Forman et al. (Forman). In numbered paragraph 28, independent claims 1 and 9, along with various dependent claims, are rejected as being unpatentable over U.S. Patent No. 6,704,284 (Stevenson) in view of U.S. Patent 6,792,455 (DeLuca et al.). These rejections are respectfully traversed.

Applicants have disclosed a method and a computer based system for managing a network, including transmitting a signal from a network manager to each of plural nodes to determine the availability of each node to a response time of each node using the signal (e.g., paragraph [0007]). The response time for each node is relayed to a database of the network manager (e.g., paragraph [0009]). As exemplified in Fig. 2, a signal can be transmitted to a high priority node more frequently than to low priority nodes 114, and/or low priority node signals can be periodically filtered 116 so that the response time is updated based on a node priority (e.g., paragraph [0010]). The relayed response time can include a start time

of the response time, an end time of the response time, and a node identification number (e.g., paragraph [0008]).

The foregoing features are broadly encompassed by claim 1, which recites, among other features, a method of managing a network, including transmitting a signal from a network manager to each of plural nodes to determine the availability of each node, determining a response time of each node using the signal, and relaying the response time of each node, including a start time and an end time of the response time of an identified node, to a database of the network manager, wherein the response time is updated based on a node priority. Claim 9 similarly recites a computer-based system for managing a network, including, among other features, logic that relays the response time of each node, including a start time and an end time of the response time of an identified node, to a database of the network manager, wherein the response time is updated based on a node priority.

In paragraph 8 of the Office Action, the Examiner admits that "Pithawala did not expressly teach updating the response time based on the node priority." In paragraph 30 of the Office Action, the Examiner admits that "Stevenson did not expressly teach updating the response time based on the node priority." At least for these reasons, Applicants respectfully submit that the Pithawala et al. and the Stevenson et al. patents do not teach or suggest "relaying the response time of each node, including a start time and an end time of the response time of an identified node, to a database of the network manager, wherein the response time is updated based on a node priority," as recited in claim 1.

The Trofin et al. patent does not cure the deficiencies of the Pithawala et al. patent. The Trofin et al. patent relates to statistical collection in a data

communication network in which the status of the nodes included in the various segments within the network is verified (abstract). The Trofin et al. patent discloses that in order to determine the status of nodes, a statistics collection block 41 periodically issues status monitoring packets to each of the nodes 61-64 (col. 3, lines 26-28). According to the Trofin et al. patent, a prioritization scheme determines how often status monitoring packets are sent to various nodes based on the frequency of requests. (col. 3, lines 61-67). However, the Trofin et al. patent is silent with respect to a collection and update of response time, including a start time and an end time of the response time of an identified node. The Trofin et al. patent does not teach or suggest "relaying the response time of each node, including a start time and an end time of the response time of an identified node, to a database of the network manager, wherein the response time is updated based on a node priority," as recited in claim 1.

The Forman et al. patent fails to overcome deficiencies of the Pithawala et al. patent. The Forman et al. patent discloses a transaction time measurement mechanism 390 (column 5, lines 23-29; Figure 3). However, the time for a server system to process a particular application as disclosed in the Forman et al. patent does not relate to a collection and update of response time, including a start time and an end time of the response time of an identified node, as claimed. The Forman et al. patent does not teach or suggest the recited features of claims 1 and 9.

Accordingly, any combination of features from the Trofin et al. and the Forman et al. patents with features of the Pithawala et al. patent would not have resulted in the presently claimed invention. At best, any such combination would have resulted in providing a network availability monitor as taught by the Pithawala et al. patent

with a discriminating capability as taught by the Trofin et al. patent or the transaction time measured by a server in the Forman et al. patent to ascertain whether a node is available or whether the node is down.

The DeLuca et al. patent does not cure the deficiencies of the Stevenson et al. patent. The DeLuca et al. patent discloses that a polling agent is capable of distinguishing between critical data and non-critical data and determining an appropriate transmission interval for the data (col. 4, lines 32-35). However, the DeLuca et al. patent does not teach or suggest "relaying the response time of each node, including a start time and an end time of the response time of an identified node, to a database of the network manager, wherein the response time is updated based on a node priority," as recited in claim 1, and as similarly recited in claim 9.

For at least the foregoing reasons, Applicants' claims 1 and 9 are allowable over the Pithawala et al. and the Stevenson et al. patents, considered individually or in combination with the Forman et al. and the Trofin et al. patents and/or the DeLuca et al. patent. The remaining claims depend from independent claims 1 and 9 and recite additional advantageous features which further distinguish over the documents relied upon by the Examiner.

The present application is considered in condition for allowance. All objections and rejections raised in the Office Action having been addressed it is respectfully submitted that the application is in condition for allowance and a Notice of Allowance is respectfully solicited.

Respectfully submitted,

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